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October 8, 1997

Robert Earl Fort
8370721
Oregon State Penitentiary
2605 State Street
Salem, OR 97310

Re: **Petition for Public Records Disclosure Order**
Secretary of State, Archives Division Records

Dear Mr. Fort:

This letter is the Attorney General's order on your petition for the disclosure of records under the Oregon Public Records Law, ORs 192.410 to 192.505. Your petition, which we received on October 3, 1997, asks the Attorney General to direct Roy Turnbaugh, the State Archivist, to produce a

> photocopy of certified copy of oath of judicial office of District Court Judge Barbara A. Halslinger subscribing, pursuant to ORS 1.635(2) and (3), for appointment pro-tempore to the circuit court of Deschutes County during the year of 1990.

We have been informed by Layne Sawyer of the Archives Division that the certified copy of the record you sought was mailed to you on or around September 30. Because the requested record has been provided to you, we deny your petition as moot.

We understand that you have been billed for the cost of providing that record. Your petition also states that you are indigent and cannot pay the cost of the requested documents, and that the documents are "very vital to my criminal case now pending." Under ORS 192.440(4), a public body may reduce or waive fees if the body determines that such a

reduction is in "the public interest because making the record available primarily benefits the general public."

Because ORS 192.440(4) was modeled on the provision for waiver of fees in the federal Freedom of Information Act (FOIA), this office has followed the federal courts' interpretation of the FOIA provision.

> The federal courts have found that the public interest standard requires an analysis of whether disclosure of the information would benefit the public, not merely the private interests of the requestor. Becuase the proper focus must be on the benefit to the public, a personal benefit to be derived by the requestor alone is insufficient to require a fee waiver. If a requestor seeks information relating solely to the requestor in order to aid his or her defense against criminal prosecution, there is insufficient public benefit to require a fee waiver.

ATTORNEY GENERAL'S PUBLIC RECORDS AND MEETINGS MANUAL 13 (1995).

The disclosure of a certified copy of the requested record would appear to benefit only yourself. Therefore, you are not entitled to a fee waiver. The Archives Division is not required to waive its fee for providing the record.

Sincerely,

DAVID SCHUMAN
Deputy Attorney General

JAA026BB/DS/jh
c: Roy Turnbaugh
State Archivist